

NOTICE OF FINAL DECISION


OF BOARD OF APPEALS

RE: Case No. V-35-08 Parke Cheverly Apartments, LLC

Enclosed herewith is a copy of the Board Order setting forth the action taken by the Board of Appeals in your case on the following date: May 7, 2008 .

CERTIFICATE OF SERVICE

This is to certify that on June 10, 2008 , the above notice and attached Order of the Board were mailed, postage prepaid, to all persons of record.



Anne F. Carter
Administrator

cc: Petitioner
Adjoining Property Owners
DER, Building Code Official, Permit & Review Div.
M-NCPPC, Permit Review Section

BEFORE THE BOARD OF APPEALS FOR PRINCE GEORGE'S COUNTY, MARYLAND
Sitting as the Board of Zoning Appeals

Petitioner: Parke Cheverly Apartments, LLC
Appeal No.: V-35-08
Subject Property: Parcel A, Monroe South Subdivision, being 3422 55th Avenue, Hyattsville,
Prince George's County, Maryland
Counsel for Petitioner: Daniel Lynch, Esq., Knight, Manzi, Nussbaum & LaPlaca
Witness: Joann DiMeglio, Parke Cheverly Apartments
Kenneth Cooper, Joyce Engineering
Heard and Decided: May 7, 2008
Board Members Present and Voting: Bobbie S. Mack, Chairperson
Albert C. Scott, Vice Chairman
Anastasia T. Johnson, Member

RESOLUTION

This appeal is brought before the Board of Appeals, sitting as the Board of Zoning Appeals for the Maryland-Washington Regional District in Prince George's County, Maryland (the "Board"), requesting variances from the strict application of the provisions of Subtitle 27 of the Prince George's County Code (the "Zoning Ordinance").

In this appeal, a proceeding pursuant to Section 27-229 of the Zoning Ordinance, Petitioner requests that the Board approve variances from Section 27-442(c)(Table II) of the Zoning Ordinance, which prescribes that multi-family dwellings having less than 4 stories shall maintain 70% of the net lot area as green area, and Section 27-442(c)(Table II), which prescribes that not more than 30% of the net lot area shall be covered by buildings and off-street parking. Petitioner proposes to construct handicapped parking spaces and a leasing office to replace the pool house. Variances of 6% from the minimum green area requirement and 6% net lot coverage are requested.

Evidence Presented

The following testimony and record evidence were considered by the Board:

1. The property was subdivided in 1965, contains 347,817 square feet (7.9848 acres), is zoned R-18 (Multifamily Medium Density Residential) and is improved with a multi-family apartment complex and parking area. The property was developed in 1967. See Exhibits 4, 6 & 10.
2. The property is an odd-shaped parcel located at the dead end of 54th Avenue. The property is accessible from three streets: 54th Avenue, 55th Avenue and Monroe Street. See Exhibits 4, 11 & 17.
3. The existing complex containing 168 units was certified as an approved non-conforming use ("NCU") in 2000 (NCU 8309205-2000-U). At the time of NCU certification, the amount of green area required was only 55% and the property contained 64% green area. See Exhibits 9 & 15.
4. Petitioner proposes to construct a leasing office in the same location as a recently-razed pool house and reconfigure existing parking area to create new handicapped-accessible parking area. Although the proposed construction would cause no loss of green area and no additional lot coverage, Petitioner

intentionally razed a building for replacement on that site and must meet the current requirement of 70% green area and no more than 30% net lot coverage in order to obtain a building permit. See Exhibit 8. Since there is (and will be) 64% green area and 36% net lot coverage on the property, variances of 6% from the minimum green area requirement and 6% net lot coverage were requested.

5. Counsel for Petitioner explained that the variances are necessary in order to keep the apartment complex up-to-date. Counsel stated the pool house that was razed was no longer needed because the swimming pool it served was filled in to create a basketball court. Counsel further stated that the approved Master Plan (1994) for the area recommended High Urban land use for the subject property, which is the type of use existing on the property today. Counsel explained that the property backs up to property with Light Industrial land use on one side and residential R-55 zoned land on another side. See Exhibits 16 & 18.

6. Joann DiMeglio testified that Petitioner plans to landscape over the existing basketball court, but there are two existing play areas that will be retained on the property. Ms. DiMeglio stated that the new leasing office building will offer the residents a business center with computers and fax machines.

Applicable Code Section and Authority

Section 27-230 of the Zoning Ordinance authorizes the Board to grant variances when, by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary situation or condition of specific parcels of property, the strict application of the Zoning Ordinance would result in peculiar and unusual practical difficulties or an exceptional or undue hardship upon the owner of the property, provided such relief can be granted without substantial impairment of the intent, purpose and integrity of the General Plan or Master Plan.

Findings of the Board

After hearing all the testimony and reviewing the evidence of record, the Board finds that the requested variances comply with the applicable standards set forth in Section 27-230, more specifically:

Due to the unusual shape of the property, the existing conditions on the property, the property being certified as an NCU in 2000 with 64% green area and 36% net lot coverage, the regulations at the time of NCU certification requiring only 55% green area, the proposed construction causing no change in the amounts of green area and net lot coverage, the current regulations requiring 70% green area and allowing a maximum of 30% net lot coverage, Petitioner needing to meet the current regulations in order to obtain a building permit, the variances being necessary in order to keep the apartment complex up-to-date, and the character of the neighborhood, granting the relief requested would not substantially impair the intent, purpose and integrity of the General Plan or Master Plan, and denying the request would result in a peculiar and unusual practical difficulty upon the owner of the property.

BE IT THEREFORE RESOLVED, unanimously, that variances of 6% from the minimum green area requirement and 6% net lot coverage in order to construct handicapped parking spaces and a leasing office to replace the pool house on the property located at Parcel A, Monroe South Subdivision, being

3422 55th Avenue, Hyattsville, Prince George's County, Maryland, be and are hereby APPROVED. Approval of the variance is contingent upon development in compliance with the approved site plan, Exhibit 4, and the approved elevation plans, Exhibit 5(a)&(b).

BOARD OF ZONING APPEALS

By: (Original Signed)
Bobbie S. Mack, Chairperson

NOTICE

Within thirty (30) days from the date of this decision, any person, firm, corporation, or governmental agency who was a party to the Board's proceedings and is aggrieved by its decision may file an appeal to the Circuit Court of Prince George' County.

Further, Section 27-233(a) of the Prince George's County Code states:

A decision of the Board, permitting the erection of a building or structure, shall not be valid for more than two (2) years, unless a building permit for the erection is obtained within this period and the construction is started and proceeds to completion in accordance with the terms of the decision and the permit.